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fixed, *Knapp v. Anderson*, 71 N. Y. 466; *McCombs v. Allen*, 82 N. Y. 114. The federal courts under the act of 1867 are in accord with the New York rule; see *Holyoke v. Adams*, 10 N. B. R. 270; see also *Fisse v. Einstein*, 5 Mo. App. 78; *Slusher v. Hoppins*, 80 Ky. Law R. 257. On the other hand the Massachusetts courts view the condition of the appeal bond as one to pay only in case a valid judgment is rendered against the obligor and hold that as no valid judgment can be rendered after the principal has been discharged in bankruptcy the surety cannot be liable, the event not having happened upon which the liability of the surety was to depend. *Hamilton v. Bryant*, 114 Mass. 543; in accord, *Klipstein v. Allen-Miles Co.*, 136 Fed. 385; *Goyer Co. v. Jones*, 79 Miss. 253, 8 Am. B. R. 437; *Laffoon v. Kerner*, 138 N. C. 281; *House v. Schnadig*, 235 Ill. 301; BRANDENBURG, BANKRUPTCY, § 415. This also seems to be the view of the United States Supreme Court, see *Wolf v. Stix*, 99 U. S. 1. A further reason in support of this view is given in *Laffoon v. Kerner*, supra: if the principal is discharged and the surety bound, the surety's right to sue for exoneration is not affected, therefore by a circuitous route the bankrupt may be made to pay a debt from which he has been discharged. The main question involved, however, seems to be, whether the state court is able to render a formal judgment against the bankrupt for the purpose of charging the sureties. *Hill v. Harding*, 130 U. S. 699; *In re Maaget*, 173 Fed. 232. It is a matter concerning the surety rather than the bankrupt and as it does not concern a personal right of the bankrupt nor any portion of his estate, its determination should not be affected by the bankruptcy act. That act provides that the liability of the surety shall not be affected, but whether there is any liability at all must be determined by the state in which the question arises.

CHARITIES—VALIDITY—CERTAINTY AS TO PURPOSE OF THE GIFT.—Testator devised the residue of the estate "in trust, nevertheless, to carry out certain other purposes of mine mentioned" to the trustee and another, "and relating to certain charitable and benevolent institutions and associations, to a clock tower and clock in memory of my sister; to the use of our old homestead estate as a memorial to my mother, to be known as the B. Park playgrounds," and further authorized the trustee to sell other lots and use the proceeds "in carrying out said designated plans and purposes" and to use the personal estate as the trustee might "consider best for the interests of my estate and the foregoing plans and purposes referred to." A petition was filed against the Attorney General et al. to establish the trust: *Held*, the charitable trust was invalid for not definitely designating its objects. *Wilcox v. Attorney General et al.* (1911), — Mass. —, 93 N. E. 599.

One of the distinguishing characteristics of a charitable trust is the uncertainty which is permitted in describing its objects and purposes. *Dolan v. Macdermot*, L. R. 5 Eq. 60, 3 Ch. App. 676; *Harrington v. Pier*, 105 Wis. 485, 50 L. R. A. 307, 76 Am. St. Rep. 924, 82 N. W. 345. It is well settled that it is not necessary that the gift be denominated a charity. If it is so described as to show that it is charitable in its nature, that is sufficient. *MacKenzie v. Trustees*, 67 N. J. Eq. 652, 3 L. R. A. (N. S.) 227, 61 Atl. 1027;

Hoeffer v. Clogan, 171 Ill. 462, 40 L. R. A. 720, 63 Am. St. Rep. 241, 49 N. E. 527. As to the degree of certainty necessary to constitute a valid charitable trust, the cases cannot be reconciled. In *Everitt v. Carr*, 59 Me. 325, a devise "in trust to be used purely and solely for charitable purposes" was held valid. While in *Webster v. Morris*, 66 Wis. 366, 57 Am. Rep. 278, a bequest "for charitable purposes" was considered too indefinite. On the question whether a gift for charitable purposes which leaves to the executor or trustee a discretion in choosing the objects of the charity, is valid, the courts are divided. The weight of authority is probably in favor of their validity. *Haynes v. Carr*, 70 N. H. 463, 49 Atl. 639; *St. James Asylum v. Shelby*, 60 Neb. 796, 84 N. W. 273; *Fox v. Gibbs*, 86 Me. 87, 29 Atl. 940. Other courts will refuse to enforce the devise or bequest if it fails to point out the general scheme of the charity. *People v. Powers*, 147 N. Y. 104, 35 L. R. A. 502, 41 N. E. 432; *Gambell v. Trippe*, 75 Md. 252, 15 L. R. A. 235, 32 Am. St. Rep. 388, 23 Atl. 461. The policy of the English courts in executing the general intent of the testator is broader than that of the courts in the United States. In *Mills v. Farmer*, 19 Ves. Jr. 483, the testator made a bequest to charitable "purposes as I intend to name hereafter." This was held to be a valid charitable bequest. See also, *Gillan v. Gillan*, 1 L. R. Ir. 114. Contra *Trinity Church v. Baker*, 91 Md. 539. If the gift in the principal case is too indefinite, it cannot be made valid by a resort to oral communications. *Trinity Church v. Baker*, supra; *Smith v. Smith*, 54 N. J. Eq. 1. But if it is a sufficient disposition, the fact that the plan and details are to be worked out in accordance with oral communications made to the executor will not invalidate the gift. *Grandom's Estate*, 6 Watts & S. 537.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF THE LAWS—ABROGATION OF FELLOW-SERVANT RULE.—A Mississippi statute abrogates the common law fellow-servant rule as to "every employee of a railroad corporation" (§ 3559 Miss. Code, 1892). In a tort action for the wrongful killing of a section foreman, the defendant attacked the constitutionality of this clause. Held, it does not offend against the equal protection or due process clauses of the Federal Constitution. *Mobile, J. & K. C. R. R. Co. v. Turnipseed* (1910), — U. S. —, 31 Sup. Ct. 136.

Abrogation of the fellow-servant rule as applied to railroads has been generally upheld on the ground that legislatures have the right to pass laws affecting such especially hazardous employment. *Missouri P. R. Co. v. Mackey*, 127 U. S. 205; *Schradin v. New York, C. & H. R. Co.*, 103 N. Y. Supp. 73; *Louisville & N. R. Co. v. Melton*, 30 Sup. Ct. 676; *Tullis v. Lake Erie & W. R. Co.*, 175 U. S. 348; *Georgia R. Co. v. Ivey*, 73 Ga. 499. But such laws are held unconstitutional as applied to corporations other than railroad corporations, upon the ground that burdens are imposed upon corporate employers that are not imposed upon individuals or partnerships carrying on the same kind of business. *Bedford Quarries Co. v. Bough*, 168 Ind. 671. Then as applied to railroad corporations there are some decisions which hold that the term "employee" applies only to those persons operating the road and not to persons laying ties, for instance. *Ney v. Dubuque*